

APPENDIX E

Agency Final Comments

File No. 2002-00017

Laurel Marina and Yacht Club, Inc.

South Fork Holston River Mile 56.5, Sullivan County, TN

Morris, Lisa R LRN

From: Robbie_Sykes@fws.gov
Sent: Thursday, July 27, 2006 3:33 PM
To: Morris, Lisa R LRN
Cc: rob.todd@state.tn.us; Davis, Stanford E.
Subject: Re: Laurel Marina Revised Mitigation Plan Layout and ALternatives Analysis

Lisa,

We have reviewed the alternatives analysis for the proposed Laurel Marina and Yacht Club expansion project in Sullivan County, Tennessee. As you know, our office is opposed to the placement of fill into public waters for private development projects. Based on the above we continue to request denial of the permit. We understand that the applicant currently has harbor limits within this cove; however, we would rather see the expansion take place at another location that would not adversely impact natural resources to the point this project would.

Assuming this project does get permitted, we continue to request that the fish structures be placed outside the proposed harbor limits. The TWRA has offered their assistance, and should be involved in the placement of these structures. They have also sent you a proposal that would help offset the functions lost from the filling of the shallow-water habitat. Although the amount of structures proposed by the TWRA may seem excessive, the materials needed to make these structures are very inexpensive and easy to build and install. Although, we feel that TWRA's proposal would help mitigate for the lost shallow water habitat functions, we continue to request denial of the permit.

Thank you for the opportunity to comment on the subject alternatives analysis. Please do not hesitate to contact me if you have questions about these comments.

Robbie

"Morris, Lisa R
LRN"
<Lisa.R.Morris@lr
n02.usace.army.mi
l>

07/20/2006 02:01
PM

<robbie_sykes@fws.gov>,
<rob.todd@state.tn.us>

To

cc

"Davis, Stanford E."
<sedavis2@tva.gov>

Subject

Laurel Marina Revised Mitigation
Plan Layout and ALternatives
Analysis

In response to your comments to the two public notices for Laurel Marina, the applicant provided an alternatives analysis. In addition, he modified his mitigation plan to include benches and rocks clusters etc. both inside of the marina with the majority on the outside (fish attractors). I would also like to devise a monitoring condition for the mitigation plan.

Please review the attachments and provide your final comments to the PNs. After receipt of your response, I will proceed with an EA and determination on this permit

request.

All of your comments will be included in the EA, (please email comments if possible).

Thanks

Lisa R. Morris, Project Manager
Nashville District Regulatory Branch
3701 Bell Road
Nashville, TN 37214
(615) 369-7504

[attachment "LM Alternative 071806.doc" deleted by Robbie Sykes/R4/FWS/DOI] [attachment
"LM-PLAN-final.pdf" deleted by Robbie Sykes/R4/FWS/DOI]

Morris, Lisa R LRN

From: Rob Todd [Rob.Todd@state.tn.us]
Sent: Friday, July 21, 2006 12:28 PM
To: robbie_sykes@fws.gov; Morris, Lisa R LRN
Cc: Stanford E. Davis
Subject: Re: Laurel Marina Revised Mitigation Plan Layout and Alternatives Analysis

Lisa

We continue to be of the opinion that mitigation should be required for the fill area and the excavation area for impacts to shallow water habitat. Shallow water habitat provides functions such as nursery and spawning areas for several fish species. We know the excavation area is

3.66 acres but do not know the acreage that will be filled, only the cubic yards of material. It has been our policy to view mitigation such as that proposed by the applicant as enhancement since it neither restores or creates shallow water habitat but enhances the functions of existing habitat. Therefore we recommend that the applicant mitigates at a 4:1 ratio by acreage. Currently we recommend that 8 structures (spawning benches or rock piles) would mitigate for 1/4 an acre of impact at a 4:1 ratio. So for the known excavation area of 3.66 acres, we would recommend that the applicant construct 117 structures (3.66 acres of impact X 4 (4:1 ratio) X 8 structures = 117 structures), such as spawning benches or boulder clusters. The same mitigation ratios should apply to the fill area. The effectiveness of these structures in mitigating for the loss of functions provided by shallow water habitat is greatly dependent upon the location, substrate, and elevation in which these structures are placed. Therefore we request that the applicant coordinate with our Regional fisheries and habitat personnel to insure that these structures are placed in a location and manner that will be effective.

It appears that it is the position of the applicant that the area proposed for excavation should not be considered an impact but should be considered as a mitigation area. In this we do not agree. Currently there exists shallow water habitat in the area to be excavated, with a sloping bank and gravel substrate. It is our concern that the substrate in area after excavation will be mostly solid rock. The applicant maintains that in the area proposed for excavation there is a "minimal solid rock hard pan" and that "Soil and rock tests by a licensed engineering firm confirm this." The applicant maintains that after excavation, the substrate will be similar to that currently found at that location. In my comment letter to Carl Olsen, dated October 12, 2005, regarding this project I wrote the following: "In a conversation on June 3, 2005 with Mr. Thomas, he stated that the proposed excavation would not be to durable rock as stated in the notice but the substrate would be similar to that which currently exists at the project area. I requested a statement from his geologist stating that the excavation would not be to durable rock but provide substrate similar in nature as that which currently exists at the project area. I never received the requested statement from his geologist, ...". I still have not received a report from the applicant's licensed engineering firm addressing by concern. In my opinion this issue needs to be resolved prior to acceptance of the proposed mitigation plan.

We are not opposed to the applicant constructing fish attractors but fish attractors only concentrate fish but do not address the loss of functions, therefore the construction of fish attractors should not be credited as mitigation.

As far as monitoring the success of the proposed mitigation measure, electrofishing of the habitat structures would determine utilization by spawning adult fish, both female in egg bearing condition and males guarding the nests from predators. Larval fish near the structures could provide information on how the structures would enhance nursery functions. In my opinion, three years of data, at a minimum, would probably be sufficient to account for variability in this situation.

Robert M. Todd
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>>> "Morris, Lisa R LRN" <Lisa.R.Morris@lrn02.usace.army.mil> 07/20/06
2:01 PM >>>

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